

view of there having been four trials and the various juries agreeing to the large damages above referred to, the last verdict should stand. One of the judges expressing himself as follows: "Where the right to a jury trial exists, it is intended that the verdict of the jury shall be conclusive upon the facts in the absence of legal error or bias, passion, prejudice, or corruption. Verdicts are set aside as against the weight of evidence, and new trials are granted on the theory that the jury have been influenced by bias, passion, prejudice, or corruption. While the trial court and the appellate division should not hesitate to set aside a verdict as against the weight of evidence where the ends of justice appear to require a new trial, yet, when it comes to setting aside a third verdict rendered in an ordinary action possessing no extraordinary features, the Court should hesitate lest it usurp the functions of the jury. A sufficient number of trials has now been granted to remove any suspicion of the existence of bias, passion, prejudice, or corruption, and it becomes a mere matter of judgment on questions of fact."

Two of the judges dissented on the ground that two wrongs (in this case four) did not make a right. In their opinion if the verdicts were wrong, as being the result of misconception, prejudice or partiality, they should not be allowed to stand—the law imposed a duty upon the Courts to review verdicts, and this duty should be done whensoever and as often as might be necessary in furtherance of justice.

It is difficult to get over such reasoning as this. If an injustice was done to the defendants by the first verdict it was equally so by the others, and if the first should not stand neither should the last. In the United States the decision arrived at by the Supreme Court would appear to be in accordance with the authorities. Each case must of course depend upon its own merits; but we are neither so enamoured of juries in this country nor in a general way so doubtful about our judges that we care to favour a rule that would make their wisdom and sense of right bow to the pertinacity of jurymen. On the other hand it may safely be said that the jury system would have a more limited operation in this Dominion were it not for the somewhat autocratic methods of an occasional occupant of the Bench or the peculiarity of view which is inherent in human nature, and which sometimes becomes a too marked feature in an individual judge.